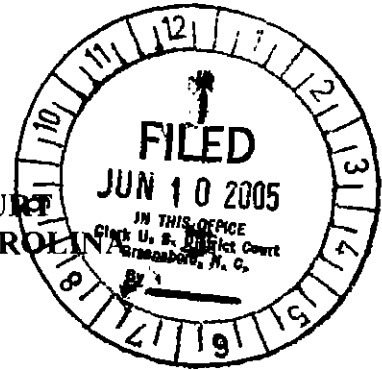


IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Andrew Carlesta King,

Petitioner,

v.

United States of America,

Respondent.

**1:05CV00529**

1:97CR226-1; 1:97CR231-1

**ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**TO PETITIONER FILING A NEW MOTION**

Petitioner, a federal prisoner, has submitted a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. This motion cannot be further processed for the following reasons:

1. An insufficient number of copies was furnished. Petitioner must submit an original and two copies. Rule 3(a), Rules Governing § 2255 Proceedings. Note that at least one of the copies must bear petitioner's original signature.
2. Petitioner is also advised that his memorandum should be a separate document from his motion form, and it should be separately paginated.

Because of these pleading failures, this particular motion will be dismissed, but without prejudice to petitioner filing a new motion properly following the 28 U.S.C. § 2255 forms, correcting the defects of the present motion. The Court has no authority to toll the statute of limitation, therefore it continues to run, and petitioner must act quickly if he intends to pursue this motion. See Spencer v. Sutton, 239 F.3d 626 (4<sup>th</sup> Cir. 2001).

**IT IS THEREFORE ORDERED** that this action be filed and dismissed sua sponte without prejudice to petitioner filing a corrected motion on the proper § 2255 forms. To further aid petitioner, the Clerk is instructed to send petitioner § 2255 forms and instructions.

A handwritten signature in black ink, appearing to read "Wallace W. Dixon", written in a cursive style.

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Wallace W. Dixon, U.S. Magistrate Judge

June 10, 2005